

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEVIN BARNES,

Plaintiff,

-against-

CARSON BLOCK and MUDDY WATERS,
LLC,

Defendants.

22-CV-07236-LTS-RWL

ORDER

Plaintiff Kevin Barnes (“Plaintiff” or “Barnes”) brings this action against Defendants Carson Block and Muddy Waters, LLC (“Defendants”) asserting three claims for breach of fiduciary duty, unjust enrichment, and constructive trust. (Docket entry no. 13 (“Compl.”).) Defendants have moved to dismiss the unjust enrichment and constructive trust claims arguing, *inter alia*, that the claims were not ripe at the time of briefing due to Plaintiff’s then-pending Third Circuit appeal of the disputed award determination. (Docket entry no. 15 (“Def. Mem.”) at 9-11.) Following the Third Circuit’s March 23, 2023 decision, which denied Plaintiff’s application for review of the SEC’s whistleblower award determination, the parties submitted supplemental briefing letters to Judge Broderick wherein Defendants asserted the claims were still not ripe because Plaintiff had not exhausted all avenues for appeal and the SEC had not yet paid Defendants the award. (Docket entry no. 33 (“Def. Ltr.”).) This action was transferred to the undersigned on November 30, 2023.

The parties are directed to meet and confer and file a joint status update, no later than **February 23, 2024**, regarding the status of Plaintiff's appeals, the payment of the SEC whistleblower award, and whether any developments since briefing was completed moot any of the issues raised in the pending motion practice.

SO ORDERED.

Dated: New York, New York
February 9, 2024

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge